IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION CIVIL ACTION NO: 3:05CV167

ERIC M. MUNGO, SR.,)	
Plaintiff)	
)	
vs.)	<u>ORDER</u>
) _	
CONSOLIDATED METCO, INC.,)	
Defendant.)	
)	
)	

THIS MATTER IS BEFORE THE COURT on the "Defendant's Motion to Strike Plaintiff's Second Amended Complaint" ("Motion to Strike") (Document No. 14), filed August 8, 2005 by Consolidated Metco, Inc. ("Consolidated Metco"); the "Response to Defendant's Motion ..." (Document No. 15), filed August 16, 2005 by Eric M. Mungo, Sr.; and the "Defendant's Reply ..." (Document No. 16), filed August 25, 2005 by Consolidated Metco. For the reasons set forth in the hearing on the Motion to Strike, which was held in front of the undersigned on Thursday, November 10, 2005, the undersigned will deny the Motion to Strike. Because Consolidated Metco filed in a timely fashion the "Defendant's Answer" (Document No. 10) to the "Amended Complaint" (Document No. 4), Consolidated Metco has no obligation to respond further to the Summons, dated July 1, 2005, and attached papers served upon it on or about July 18, 2005.

IT IS, THEREFORE, ORDERED that the "Defendant's Motion to Strike Plaintiff's Second Amended Complaint" (Document No. 14) is **DENIED**.

Signed: November 10, 2005

David C. Keesler
United States Magistrate Judge